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 and David Daleiden, and Counsel for Troy
 Newman, Albin Rhomberg and Sandra Merritt,
 listed on Signature Page]

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

PLANNED PARENTHOOD FEDERATION OF
 AMERICA, INC., ET AL.

Plaintiffs,

v.

CENTER FOR MEDICAL PROGRESS, ET AL.,

Defendants.

Case No. 3:16-cv-00236-WHO

**SECOND JOINT CHART ON
 MOTIONS TO SEAL**

Judge: Hon. William H. Orrick, III

SECOND JOINT CHART ON MOTIONS TO SEAL

Case No. 3:16-cv-00236-WHO

Pursuant to this Court’s Order on Pending Administrative Motions to Seal [ECF # 1063], at 7:21–25, Plaintiffs Planned Parenthood Federation of America, Inc.; Planned Parenthood: Shasta-Diablo, Inc. dba Planned Parenthood Northern California; Planned Parenthood Mar Monte, Inc.; Planned Parenthood of the Pacific Southwest; Planned Parenthood Los Angeles; Planned Parenthood/Orange and San Bernardino Counties, Inc.; Planned Parenthood California Central Coast; Planned Parenthood Pasadena and San Gabriel Valley, Inc.; Planned Parenthood of the Rocky Mountains; Planned Parenthood Gulf Coast; and Planned Parenthood Center for Choice (“Plaintiffs”) and Defendants the Center for Medical Progress, BioMax Procurement Services, LLC, David Daleiden, Troy Newman, Albin Rhomberg, Sandra Merritt, and Adrian Lopez (“Defendants”) (collectively, the “Parties”), by and through their counsel, submit this Second Joint Chart on Motions to Seal.

DOCUMENTS TO BE FILED PUBLICLY BY AGREEMENT OF THE PARTIES

Dkt. #	Exhibit Number
822-2	Exhibit 16: Internal PPGC email dated 8/4/2015 produced in this action at Bates PP0008051 through PP0008052.
822-3	Exhibit 17: Internal PPGC email dated 9/5/2015 produced in this action at Bates PP0009156 through PP0009157.
822-4	Exhibit 18: Internal PPFA email dated 7/20/2015 produced in this action at Bates PP0006763 through PP0006778.
822-5	Exhibit 19: Plaintiffs’ memorandum dated 3/9/2015 produced in this action at Bates PP0011157 through PP0011160.
822-6	Exhibit 28: Relevant portions of the transcript of the deposition of PPMM’s Medical Director Dr. Dorothy Furgerson, taken in this action on April 11, 2019.
822-7	Exhibit 29: Relevant portions of the transcript of the deposition of Plaintiff PPMM’s FRCP 30(b)(6) witness, Michelle Syzmanski, taken in this action on April 18, 2019.

Dkt. #	Exhibit Number
822-8	Exhibit 32: Plaintiffs' Second Amended Response to Defendant Gerardo Adrian Lopez's Interrogatories (Set Two), dated June 6, 2018.

DOCUMENTS FOR WHICH ONE PARTY SUPPORTS REDACTING

Dkt #	Exhibit Number	Argument Regarding Sealing
1042-2	Exhibit 5 to Defendants' Proffer: the Reporter's Transcript of Proceedings for the Preliminary Hearing held in San Francisco Superior Court Case Nos. 2502505 and 17006621, on September 17, 2019	<p>Plaintiffs' Position: Defendants cite Exhibit 5 in the proffer of testimony by Dr. Forrest Smith and Dr. Theresa Deisher to support Defendants' defense to the UCL claims. (ECF 1041 at 8). Plaintiffs do not object to the unsealed filing of Dr. Smith's and Dr. Deisher's testimony but object to the filing of the complete transcript volume from September 17, 2019. The other portions of the transcript are not relevant to Dr. Smith's and Dr. Deisher's testimony. Plaintiffs request any other portions of the preliminary hearing transcript be redacted. Alternatively, Defendants could refile the exhibit to include only the pages covering Dr. Smith's and Dr. Deisher's testimony.</p> <p>Defendants' Position: Defendants would withdraw their motion to seal but for a procedural technicality. In the criminal action, <i>California v. Daleiden</i>, No. 2502505, Judge Hite's commitment order made public the final transcripts of the preliminary hearing, except with the redaction of any Doe names (accidentally uttered) and any personally identifying information. Judge Hite's order, however, is silent as to the preliminary transcripts which were tentatively filed under seal with the UCL proffer. However, because a review of them by counsel for CMP reveals that they contain no information in need of redaction, there is no substantive reason why they need be sealed, as indeed the identical or nearly identical final transcripts can be published online. Moreover, Judge Hite ordered that the transcripts of the preliminary hearing can be used in this action in whatever manner this Court deems appropriate.</p> <p>Another potential issue is that Exhibit 5 discusses recordings made at the NAF tradeshow in San Francisco. (Ex. 5 at 1147:15–1154:28, 1196:24–</p>

Dkt #	Exhibit Number	Argument Regarding Sealing
		1197:9). However, besides the fact that the discussion has already been made public at a public hearing, and under Judge Hite's orders can be published, it merely concerns the physical layout of the hotel and physical actions taken by individuals. Defendants do not believe that this minimal discussion therefore comes within the purview of the preliminary injunction. Therefore, under the sealing standards of the Northern District and the Ninth Circuit, Defendants believe it would be appropriate for the Court to direct the Clerk to unseal Dkt. No. 1042-2.
1042-3	Exhibit 6 to Defendants' Proffer: the Reporter's Transcript of Proceedings for the Preliminary Hearing held in San Francisco Superior Court Case Nos. 2502505 and 17006621, on September 18, 2019.	<p>Plaintiffs' Position: Defendants cite Exhibit 6 in the proffer of testimony by Dr. Theresa Deisher to support Defendants' defense to the UCL claims. (ECF 1041 at 9). Plaintiffs do not object to the unsealed filing of Dr. Deisher's testimony but object to the filing of the complete transcript volume from September 18, 2019. The other portions of the transcript are not relevant to Dr. Deisher's testimony. Plaintiffs request any other portions of the preliminary hearing transcript be redacted. Alternatively, Defendants could refile the exhibit to include only the pages covering Dr. Deisher's testimony.</p> <p>Defendants' Position: Defendants would withdraw their motion to seal but for a procedural technicality. In the criminal action, <i>California v. Daleiden</i>, No. 2502505, Judge Hite's commitment order made public the final transcripts of the preliminary hearing, except with the redaction of any Doe names (accidentally uttered) and any personally identifying information. Judge Hite's order, however, is silent as to the preliminary transcripts which were tentatively filed under seal with the UCL proffer. However, because a review of them by counsel for CMP reveals that they contain no information in need of redaction, there is no substantive reason why they need be sealed, as indeed the identical or nearly identical final transcripts can be published online. Moreover, Judge Hite ordered that the transcripts of the preliminary hearing can be used in this action in whatever manner this Court deems appropriate. Therefore, under the sealing standards of the Northern District and the Ninth Circuit, Defendants believe it would be appropriate for the Court to direct the Clerk to unseal Dkt. No. 1042-3.</p>

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2 Dated: April 15, 2020

Respectfully submitted,

3 **ARNOLD & PORTER KAYE SCHOLER LLP**

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